

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

KELLY BERNSTEIN,

Plaintiff,

Case No:

-against-

JURY TRIAL DEMANDED

OORAH INC. d/b/a THE ZONE CAMP

Defendant.

-----X

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant, OORAH INC. d/b/a THE ZONE CAMP (hereinafter “OORAH”), by the undersigned counsel, hereby removes to this Court the above captioned action, which was pending against it in the Supreme Court of the State of New York, County of Rockland. Removal is based on the following grounds:

1. On or about August 4, 2020, Plaintiff, Kelly Bernstein, commenced a civil action against OORAH in the Supreme Court of the State of New York, County of Rockland, docketed as Index No. 033456/2020 (hereinafter the “Lawsuit”).
2. On or about August 13, 2020, OORAH was served with a copy of the Summons and Verified Complaint in this Lawsuit via State of New York, Department of State, Division of Corporations. A true and accurate copy of the Summons, Verified Complaint and Affidavit of Service upon the Secretary of State is attached as **Exhibit A**.
3. This Notice of Removal is being filed by OORAH pursuant to 28 U.S.C. § 1446(2) more than thirty days after service of a copy of the Summons and Verified Complaint because the

pleadings do not specify the amount in controversy and a good faith effort has been made to verify the alleged injuries.

4. In this Lawsuit, Plaintiff asserts causes of action against OORAH based upon negligence.

5. The Lawsuit alleges that solely as a result of OORAH's negligence, "within the premises of Defendant, OORAH INC. d/b/a THE ZONE CAMP, located at 964 S. Gilboa Road, Gilboa, New York, 12076, while Plaintiff was at the aforesaid location, she was caused to hit her head on a protruding piece of wood within the bunk house, causing Plaintiff to sustain severe and permanent injuries (Verified Complaint at ¶ 24).

6. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1332 due to complete diversity among the parties' citizenship and because the amount in controversy allegedly exceeds \$75,000 exclusive of interest and costs.

Diversity Jurisdiction Exists

7. Plaintiff resides in the County of Rockland, and therefore is a citizen of the State of New York. (*See Summons*).

8. Defendant OORAH INC. is a New Jersey business corporation and has its principal place of business in New Jersey. OORAH is not a citizen of the State of New York nor do they have principal places of business in New York. No change in the place of incorporation or principal place of business of OORAH has occurred since the commencement of this Lawsuit.

Amount In Controversy Exceeds \$75,000

9. In her Complaint, Plaintiff seeks unspecified damages for personal injuries suffered at a OORAH "within the premises of Defendant, OORAH INC. d/b/a THE ZONE CAMP, located at 964 S. Gilboa Road, Gilboa, New York, 12076.

10. On September 25, 2020, Plaintiff's counsel was requested to stipulate that the recovery for damages would be capped at \$75,000 and that OORAH INC. would forego their request for removal. Plaintiff's counsel advised via email that Plaintiff would not so stipulate. The amount in controversy therefore exceeds \$75,000. Further, a Demand for Damages was served. Although, this has not been returned Plaintiff's counsel advised me that it will exceed the jurisdictional limitation of \$75,000. Plaintiff's counsel returned the Letter declining that Plaintiff will not agree to cap damages to \$75,000. See **Exhibit B**.

11. This Lawsuit is, therefore, a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332 and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446. Furthermore, removal to this judicial district and division is proper pursuant to 28 U.S.C. § 1441(a) as this is the district and division embracing Rockland County, New York, where the Lawsuit is pending.

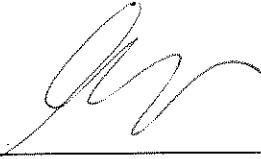
12. This Notice is accompanied by copies of all process, pleadings and orders served upon defendant in this action.

13. Promptly after this filing, this Notice of Removal will be served on Plaintiff, and OORAH will file a copy of this Notice of Removal with the Clerk of Court for the Supreme Court for the State of New York, County of Rockland.

14. This Notice is signed in accordance with Federal Rule of Civil Procedure 11.

WHEREFORE, Defendant OORAH INC. d/b/a THE ZONE CAMP respectfully removes the Lawsuit to this Court.

Dated: New York, New York
September 30, 2020

By: 

ALICE SPITZ (AS 5155)
MOLOD SPITZ & DeSANTIS, P.C.
1430 Broadway, 21st Floor
New York, NY 10018
Tel: (212) 869-3200
Our File No: CMI-624
Email: aspitz@molodspitz.com

Attorneys for Defendant
OORAH INC. d/b/a THE ZONE CAMP